

FILED

OCT 01 2004

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

**NEBRASKA DEPARTMENT
OF INSURANCE**

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE,

PETITIONER,

vs.

SHERRY R. WARTMAN,

RESPONDENT.

CAUSE NO.: A-1588

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
RECOMMENDED ORDER AND
ORDER

This matter came on for hearing on the 30th day of September, 2004, before Christine M. Neighbors, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance ("Department") was represented by its attorney, Eric Dunning. Sherry R. Wartman ("Respondent") was not present and was not represented by counsel. The Rules of Evidence were not requested and the hearing was governed accordingly. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. Evidence in the form of exhibits was introduced and the matter taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent is a licensed resident insurance producer whose registered address with the Department is 718 East Philip Avenue, North Platte, NE 69101. (Ex. 1).
2. The Department is the agency of the State of Nebraska charged with licensing insurance producers.
3. On or about August 28, 2004, the Petition and Notice of Hearing were served upon Respondent by mailing the same to her addresses of record by certified mail,

return receipt requested. On or about September 21, 2004, the certified letter was returned to the Department marked "Unclaimed" as evidenced by the attachment to Exhibit 1. However, it appears that the letter was forwarded to two other addresses before it was returned to the Department but yet no one signed for it.

4. Sylvia Gregory-Witherspoon, Investigator in the Consumer Affairs Division, sent a letter on June 25, 2004 to Respondent during the investigation of Consumer Affairs Division File 04-1042 requesting Respondent respond to the Department's questions. (Ex. 3).

5. Respondent did not respond to the June 25, 2004 letter within the statutory time of fifteen working days. Sylvia Gregory-Witherspoon referred the file to the Administrator of the Consumer Affairs Division. (Ex. 3).

6. On or about July 22, 2004, Jane Francis, Administrator of the Consumer Affairs Division sent a follow-up letter to Respondent, via certified mail return receipt, requesting a response within fifteen working days. (Ex 4).

7. Respondent received the July 22, 2004 letter on July 26, 2004, as evidenced by a copy of the signed certified mail return receipt. Jane Francis then referred the file to the Department's Legal Division on August 17, 2004. To date, the Department has not received a response to this request for information. (Ex 4).

CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Respondent to sell insurance in the State of Nebraska pursuant to *Neb. Rev. Stat. §44-4041 et seq.*

2. The Department has personal jurisdiction over Respondent.

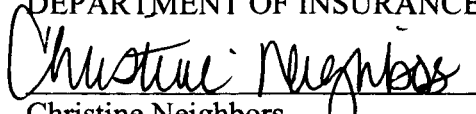
3. Respondent violated *Neb. Rev. Stat. §44-4059(1)(b)* on two occasions when she failed to respond to the Department's requests within fifteen working days as required by *Neb. Rev. Stat. §44-1525(11)*.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent pay an administrative fine of \$500.00 and that her insurance producer's license be suspended until she provides a satisfactory written response to the Department's correspondence related to CAD File No.: 04-1042.

Dated this 15th day of October, 2004.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Christine Neighbors
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of State of Nebraska Department of Insurance v. Sherry R. Wartman, Cause No.: A-1588.

Dated this 15th day of October, 2004.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order and Order was served upon the Respondent by mailing a copy to Respondent at 718 East Philip Avenue, North Platte, NE 69101 by certified mail, return receipt requested and by U.S. Mail, postage prepaid, on this 1st day of October, 2004.

Lacy A. Strum